

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALMA SUE CROFT, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

SPINX GAMES LIMITED, GRANDE GAMES
LIMITED, and BEIJING BOLE
TECHNOLOGY CO., LTD.,

Defendants.

Case No. 2:20-cv-01310-RSM

**STIPULATED MOTION AND
[PROPOSED] ORDER TO AMEND
ORDER GRANTING PRELIMINARY
APPROVAL**

STIPULATED MOTION TO AMEND ORDER GRANTING PRELIMINARY APPROVAL

Plaintiff Alma Sue Croft (“Plaintiff”), and Defendants SpinX Games Limited, Grande Games Limited, and Beijing Bole Technology Co., Ltd. (“Defendants”) (collectively, the “Parties”), by and through undersigned counsel and pursuant to Fed. R. Civ. P. 25(a)(1), hereby stipulate as follows:

WHEREAS, Plaintiff filed her motion for Preliminary Approval of the Class Action Settlement on February 15, 2022 (ECF No. 50);

WHEREAS, on March 24, 2022, the Court issued an Order Granting Preliminary Approval of the Class Action Settlement (ECF No. 60);

WHEREAS, due to a typographical error on behalf of Plaintiff’s counsel, counsel has realized that two dates in the Order Granting Preliminary Approval were inadvertently in conflict with the terms of the Settlement Agreement (ECF No. 51-1) and Fed. R. Civ. P. 23(h);

WHEREAS, in particular, Section 1.6 of the Settlement Agreement provides that the deadline to file a Claim in this Settlement (the “Claims Deadline”) “shall be set as a date no later than fifty-six (56) days after entry of the Final Approval Hearing”;

WHEREAS, the Parties agree that the Settlement Agreement should have stated that the Claims Deadline “shall be set as a date no later than fifty-six (56) days after entry of *Final Judgment*”¹;

WHEREAS, the Order Granting Preliminary Approval provides that the Claims Deadline “shall be set as a date no later than fifty-six (56) days after entry of the Final Approval Hearing,” and the “Deadline to have postmarked and/or filed a written objection to this Settlement Agreement or a request for exclusion” (the “Objection Deadline”) shall be “no later than fifty-six (56) days following entry of the Final Approval Hearing”;

WHEREAS, Fed. R. Civ. P. 23(h) requires that the Class must receive notice of Class Counsel’s proposed fee prior to the Objection Deadline, and therefore, the Objection Deadline

¹ Pursuant to Section 1.17 of the Settlement Agreement, “Final Judgment” means the Final Judgment and Order to be entered by the Court approving the Agreement after the Final Approval Hearing.”

1 must post-date Class Counsel's August 4, 2022 deadline to file their motion for attorneys' fees and
2 litigation expenses;

3 WHEREAS, the Parties jointly request that the Court amend the Order Granting
4 Preliminary Approval to correct and clarify that:

- 5 • the Objection Deadline shall be fourteen (14) days following Class Counsel's
6 deadline to file a memorandum of points and authorities in support of their fee
7 motion, i.e., August 18, 2022; and
- 8 • the Claims Deadline shall be "no later than fifty-six (56) days after the entry of
9 Final Judgment";

10 WHEREAS, the Parties respectfully submit that the Proposed Amended Order Granting
11 Preliminary Approval alleviates the aforementioned conflicts;

12 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between
13 the Parties to this action, through their undersigned counsel, and subject to the Court's approval,
14 that:

- 15 (i) the deadline to file a Claim in this Settlement shall be no later than fifty-six (56)
days following entry of the Final Judgment;
- 16 (ii) Class Counsel's deadline to file a memorandum of points and authorities in support
17 of their motion for approval of attorneys' fees and litigation expenses shall be
August 4, 2022;
- 18 (iii) the Objection Deadline shall be August 18, 2022; and
- 19 (iv) the deadline to file a memorandum of points and authorities in support of the final
20 approval of the Settlement shall be August 29, 2022.

21 All other dates in the Order Granting Preliminary Approval (ECF No. 60) shall remain the same.

22 Dated: March 29, 2022

Respectfully submitted,

23 **CARSON NOEL PLLC**

24 By: /s/ Wright A. Noel
Wright A. Noel

25 Wright A. Noel (State Bar No. 25264)
26 20 Sixth Avenue NE
27 Issaquah, WA 98027
28 Telephone: (425) 837-4717
Facsimile: (425) 837-5396

Email: wright@carsonnoel.com

BURSOR & FISHER, P.A.

By: /s/ Philip L. Fraietta
Philip L. Fraietta

Philip L. Fraietta (*pro hac vice*)
Alec M. Leslie (*pro hac vice*)
888 Seventh Avenue
New York, NY 10019
Telephone: (646) 837-7150
Facsimile: (212) 989-9163
E-Mail: pfraietta@bursor.com
aleslie@bursor.com

Attorneys for Plaintiff

Dated: March 29, 2022

BYRNES KELLER CROMWELL LLP

By /s/ John A. Tondini
John A. Tondini, WSBA #19092
1000 Second Avenue, 38th Floor
Seattle, WA 98104
Telephone: (206) 622-2000
jtondini@byrneskeller.com

Ajay S. Krishnan (*pro hac vice*)
Michelle Ybarra (*pro hac vice*)
Connie P. Sung (*pro hac vice*)
Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1809

Attorneys for Defendants

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILLIAM HEATHCOTE, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

SPINX GAMES LIMITED, GRANDE
GAMES LIMITED, and BEIJING BOLE
TECHNOLOGY CO., LTD.,

Defendants.

Case No. 2:20-cv-01310-RSM

[PROPOSED] AMENDED ORDER
GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

HON. RICARDO S. MARTINEZ

The above-captioned matter came before this Court upon Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement. On March 24, 2022, the Court entered an order granting Plaintiff's motion for preliminary approval. Due to a typographical error in Plaintiff's motion, however, certain dates in the Court's order did not comport with the parties' Settlement Agreement.

Based upon the stipulation of the parties, the prior motion, exhibits, and all the files and proceedings herein, the Court herein amends its order granting preliminary approval and finds as follows:

1. The Court grants preliminary approval of the Settlement based upon the terms set forth in the Settlement Agreement.

2. The settlement terms set forth in the Settlement Agreement appear to be fair, adequate and reasonable to the Settlement Class, and the Court preliminarily approves the terms of the Settlement Agreement, including:

- a. A Settlement Fund of \$3,500,000;
- b. An Incentive Award, which shall not exceed \$5,000 for Plaintiff Alma Sue Croft;

- c. Attorneys' fees to Settlement Class Counsel, which shall not exceed 25% of the Settlement Fund, plus reimbursement of expenses; and
- d. Reasonable settlement administration expenses.

3. The Court grants the Parties' request for certification of the following Rule 23 Settlement Class for the sole and limited purpose of implementing the terms of the Settlement Agreement, subject to this Court's final approval:

All Persons who played the Applications on or before January 31, 2022, while located in the state of Washington.²

4. The Court preliminarily appoints Philip L. Fraietta and Alec M. Leslie of Bursor & Fisher, P.A. as Class Counsel, and Plaintiff Alma Sue Croft as Settlement Class Representative.

5. This Court approves, as to form and content, the notice of proposed class action settlement (the "Notice"), in substantially the form attached to the Settlement Agreement as Exhibits B, C and D. The Court approves the procedure for Settlement Class Members to opt out of, or object to, the Settlement as set forth in the Settlement Agreement Notice.

6. The Court directs the mailing of the Settlement Class Notice by email and/or First-Class U.S. mail to the Settlement Class Members in accordance with the schedule set forth below. The Court finds the dates selected for the mailing and distribution of the Notice, as set forth below, meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

Event	Deadline
Plaintiff to issue subpoena and rider to Platform Providers as described in the Agreement § 4.1.	No later than thirty (30) days of execution of Settlement Agreement

² Excluded from the Settlement Class are (1) any Judge or Magistrate presiding over this Action and members of their families; (2) the Defendants, Defendants' subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendants or their parents have a controlling interest and their current or former officers, directors, agents, attorneys, and employees; (3) persons who properly execute and file a timely request for exclusion from the class; and (4) the legal representatives, successors or assigns of any such excluded persons.

Defendant to provide completed Settlement Class List to Class Counsel and the Settlement Administrator	No later than fourteen (14) days after receiving the data per § 4.1 of the Settlement Agreement
Settlement Administrator to provide Notice on the settlement website	No later than seven (7) days after entry of Preliminary Approval
Settlement Administrator to mail Notice via Email and/or First-Class U.S. Mail.	No later than sixty (60) days after entry of Preliminary Approval
Settlement Administrator to send Reminder Notice via email	No later than thirty (30) days prior to the Claims Deadline
Deadline to have postmarked and/or filed a Claim to this Settlement	No later than fifty-six (56) days following entry of the Final Judgment

7. The Court appoints JND Legal Administration as the Settlement Administrator.

8. The Court adopts the following dates and deadlines:

9. The Objection/Exclusion Deadline is scheduled for **Thursday, August 18, 2022**.

10. Class Counsel shall file a memorandum of points and authorities in support of their motion for approval of attorneys' fees and litigation expenses no later than **Thursday, August 4, 2022**.

11. Settlement Class Counsel shall file a memorandum of points and authorities in support of the final approval of the Settlement Agreement no earlier than **Monday, August 29, 2022**, eleven (11) days following the Objection/Exclusion Deadline.

12. A final settlement approval fairness hearing on the question of whether the proposed Settlement, attorneys' fees to Settlement Class Counsel, and the Settlement Class Representative's Incentive Award should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class is scheduled for **Thursday, September 8, 2022, at 9:00 a.m.** before the Court.

Dated this day _____ of _____, 2022

The Honorable Ricardo S. Martinez
Chief United States District Judge